

Message

From: Wax, Peter N. [pwax@nd.gov]
Sent: 10/5/2020 4:15:19 PM
To: Wirick, Holiday [wirick.holiday@epa.gov]
Subject: RE: Question re comments from ND permit lead

Dear Holly:

Weekends are for playing and like you I play hard. It is the artist in you that feeds the need – keep on keeping on.

As for comments on temp and domestic supply you may do either or neither. It is unlikely we will address temperature or add a greater description to the “b” drinking water this go round – maybe temp next time so now is not a bad time to say something.

A little history on the temperature: The state recognizes that there are issues with the 5°C trigger but it is tricky to address. It is a slippery slope to reduce any criteria (but as you and Ms. Tien point out) in a state with water temperatures that are at < 0.5 degrees during the winter it is nearly impossible not to violate with an unfrozen discharge.

The 5°C was designed to address industrial discharges of uncooled waters. The original writers never thought about the other issues associated with it (like a town of 250 people discharging into a stream in early winter or late spring where the temperature is hovering around zero).

A few years back I spent some time with other northern states trying to figure out how to change this without creating a doorway to backslide through. In the end, I came to peace with it. It is flawed and has some conflicts – but it is a very effective tool for its intended purpose and that is where the rubber meets the road.

Municipal and Domestic Drinking Water (b) is a state “beneficial use” and is defined in the standards as: Waters suitable for use as a source of water supply for drinking and culinary purposes after treatment to a level approved by the department.

Note that select criteria concentrations supporting (b) vary depending on stream classification in table I and table 2. That variation is based on the amount of treatment required. Our Human Health Criteria are based on EPA recommended numbers in the HH table and in some instances the MCLs. Usually the most restrictive of the two is selected so Alysia is correct in her feel for this.

Sincerely,

Pete

From: Wirick, Holiday
Sent: Friday, October 2, 2020 6:09 PM
To: Wax, Peter N. <pwax@nd.gov>
Subject: Question re comments from ND permit lead

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Hi Pete, I hope you have some fun weekend plans that you've already begun to enjoy!

I'd like to run something by you....

I shared ND's proposed WQS amendments with EPA Region 8's ND permit lead, Alysia Tien, an extremely smart, amazing woman, who provided a couple of general comments (below). The first comment addresses interpretation of the temperature limit, which seems to align with your concern about meeting the temperature criterion in winter. Alysia's other comment addresses the designation for "b" of "domestic drinking water."

My question is whether these comments are something you'd just like to discuss - i.e., issues to be considered in future WQS revisions, or do you think it would be useful to include them in our comment letter?

Here are Alysia's comments:

1. In permit reviews I have done, the interpretation of the temperature limit in Table 1 has been difficult- in particular the second part of the limit since temperatures can fluctuate with seasonal changes quite a bit and there is nothing in the limit that indicates how "natural background conditions" should be calculated/assessed. It can be difficult to figure out what is reasonably acceptable in permits when general terminology like this is used - when there are large fluctuations in temperature it can be difficult to set a reasonable and enforceable limit to "natural background conditions" especially since seasonal temperature changes are not easily predictable (e.g. cold/snow in spring, hot temps carrying into fall, winters warmer than normal, etc). Would suggest adding more specifics as what "natural background conditions" means and how it is calculated/assessed (unless this is something from the Standards program perspective that is already really well defined and I may just not be aware of it).

"Eighty-five degrees Fahrenheit [29.44 degrees Celsius]. The maximum increase shall not be greater than five degrees Fahrenheit [2.78 degrees Celsius] above natural background conditions."

2. In Table 1 under the heading "Substance or Characteristic", I have had confusion on the designation for "b" of "domestic drinking water". That terminology threw me off as it makes me think of safe drinking water act program limits/regs, but these would not be applicable. When I asked some ND permit writers what that was supposed to be in reference to, they were not really sure either, so it does not seem clear as to what/why "drinking water" is being referenced there (or maybe some ND permitting folks are aware of what it means and I just spoke with someone that was not sure). If it is not clear to you all, I would recommend that reference be clarified to help explain what it is exactly referring to as related to the limits listed in the table, that would be helpful to understand implementation/justification for these limits in permits. (Again, I may just not be familiar with what this is referring to so maybe you could just help walk me through it if it is clear from your program's perspective?)

Thanks Pete. Have a fun and fabulous weekend!

Holly Wirick
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